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AUTHORITY: Section 412(a)(9), Immigration and Nationality Act (8 U.S.C. 1522(a)(9)).

SOURCE: 45 FR 59323, Sept. 9, 1980, unless otherwise noted.

Subpart A—Introduction

§ 400.1 Basis and purpose of the program.

(a) This part prescribes requirements concerning grants to States and other public and private non-profit agencies, wherever applicable under title IV of the Immigration and Nationality Act.

(b) It is the purpose of this program to provide for the effective resettlement of refugees and to assist them to achieve economic self-sufficiency as quickly as possible.

(c) Under the authority in section 412(a)(6)(B) of the Immigration and Nationality Act, the Director has established the provision of employment services and English language training as a priority in accomplishing the purpose of this program.

[51 FR 3912, Jan. 30, 1986, as amended at 60 FR 33601, June 28, 1995]

§ 400.2 Definitions.

The following definitions are applicable for purposes of this part:

AABD means aid to the aged, blind, and disabled under title XVI of the Social Security Act.

AB means aid to the blind under title X of the Social Security Act.

Act means the Immigration and Nationality Act.

AFDC means aid to families with dependent children under title IV-A of the Social Security Act.

APTD means aid to the permanently and totally disabled under title XIV of the Social Security Act.

Case management services means the determination of which service(s) to refer to a refugee to, referral to such service(s), and tracking of the refugee's participation in such service(s).

Cash assistance means financial assistance to refugees, including AFDC, SSI, refugee cash assistance, and general assistance, as defined herein, under title IV of the Act.

Director means the Director, Office of Refugee Resettlement.

Federal Funding or 'FF' means Federal funding for a State's expenditures under the refugee resettlement program.

General assistance program means a financial and/or medical assistance program existing in a State or local juris-

diction which: (a) Is funded entirely by State and/or local funds; (b) is generally available to needy persons residing in the State or locality who meet specified income and resource requirements; and (c) consists of one-time emergency, or ongoing assistance intended to meet basic needs of recipients, such as food, clothing, shelter, medical care, or other essentials of living.

HHS means the Department of Health and Human Services.

Medical assistance means medical services to refugees, including Medicaid, refugee medical assistance, and general assistance, as defined herein, under title IV of the Act.

OAA means old age assistance under title I of the Social Security Act.

ORR means the Office of Refugee Resettlement.

Plan means a written description of the State's refugee resettlement program and a commitment by the State to administer or supervise the administration of the program in accordance with Federal requirements in this part.

Refugee means an individual who meets the definitions of a refugee under section 101(a)(42) of the Act.

Refugee cash assistance (RCA) means cash assistance provided under section 412(e) of the Act to refugees who are ineligible for AFDC, OAA, AB, APTD, AABD, or SSI.

Refugee medical assistance (RMA) means: (a) Medical assistance provided under section 412(e) of the Act to refugees who are ineligible for the Medicaid program; and (b) services provided in accordance with §§ 400.106 and 400.107 of this part.

Secretary means the Secretary of HHS.

Sponsor means an individual, church, civic organization, State or local government, or other group or organization which has agreed to help in the reception and initial placement of refugees in the United States and other public and private non-profit agencies, wherever.

SSI means supplemental security income under title XVI of the Social Security Act.

State means the 50 States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, the Commonwealth

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of the Northern Mariana Islands, American Samoa, and the Trust Territories of the Pacific.

State agency means the agency (or agencies) designated by the Governor or the appropriate legislative authority of the State to develop and administer, or supervise the administration of, the plan and includes any local agencies administering the plan under supervision of the State agency.

State Coordinator means the individual designated by the Governor or the appropriate legislative authority of the State to be responsible for, and who is authorized to, ensure coordination of public and private resources in refugee resettlement.

Support services means services provided or contracted for by a State, which are designed to meet resettlement needs of refugees, for which funding is available under title IV of the Act.

Time-eligibility means the period for which FF (Federal funding) is provided under §§ 400.203 and 400.204 of this part, after applying the limitation "[s]ubject to the availability of funds" in accordance with § 400.202.

Title IV of the Act means title IV, Chapter 2, of the Immigration and Nationality Act.

Voluntary resettlement agency or voluntary agency or resettlement agency means one of the national resettlement agencies (or its local affiliate or subcontractor) or a State or local government that has entered into a grant, contract, or cooperative agreement with the United States Department of State or other appropriate Federal agency to provide for the reception and initial placement of refugees in the United States.

[51 FR 3912, Jan. 30, 1986, as amended at 54 FR 5475, Feb. 3, 1989; 58 FR 46090, Sept. 1, 1993; 58 FR 64507, Dec. 8, 1993]

§ 400.3 [Reserved]

Subpart B—Grants to States for Refugee Resettlement

THE STATE PLAN

§ 400.4 Purpose of the plan.

(a) In order for a State to receive refugee resettlement assistance from

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funds appropriated under section 414 of the Act, it must submit to ORR a plan that meets the requirements of title IV of the Act and of this part and that is approved under § 400.8 of this part.

(b) A State must certify no later than 30 days after the beginning of each Federal fiscal year that the approved State plan is current and continues in effect. If a State wishes to change its plan, a State must submit a proposed amendment to the plan. The proposed amendment will be reviewed and approved or disapproved in accordance with § 400.8.

[51 FR 3912, Jan. 30, 1986, as amended at 60 FR 33602, June 28, 1995]

§ 400.5 Content of the plan.

The plan must:

(a) Provide for the designation of, and describe the organization and functions of, a State agency (or agencies) responsible for developing the plan and administering, or supervising the administration of, the plan;

(b) Describe how the State will coordinate cash and medical assistance with support services to ensure their successful use to encourage effective refugee resettlement and to promote employment and economic self-sufficiency as quickly as possible.

(c) Describe how the State will ensure that language training and employment services are made available to refugees receiving cash assistance, and to other refugees, including State efforts to actively encourage refugee registration for employment services;

(d) Identify an individual designated by the Governor or the appropriate legislative authority of the State, with the title of State Coordinator, who is employed by the State and will have the responsibility and authority to ensure coordination of public and private resources in refugee resettlement in the State;

(e) Provide for, and describe the procedures established for, the care and supervision of, and legal responsibility (including legal custody and/or guardianship under State law, as appropriate) for, unaccompanied refugee children in the State;

(f) Provide for and describe (1) the procedures established to identify refugees who, at the time of resettlement

in the State, are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation, and (2) the procedures established to monitor any necessary treatment or observation;

(g) Provide that assistance and services funded under the plan will be provided to refugees without regard to race, religion, nationality, sex, or political opinion; and

(h) Provide that the State will, unless exempted from this requirement by the Director, assure that meetings are convened, not less often than quarterly, whereby representatives of local affiliates of voluntary resettlement agencies, local community service agencies, and other agencies that serve refugees meet with representatives of State and local governments to plan and coordinate the appropriate placement of refugees in advance of the refugees' arrival. All existing exemptions to this requirement will expire 90 days after the effective date of this rule. Any State that wishes to be exempted from the provisions regarding the holding and frequency of meetings may apply by submitting a written request to the Director. The request must set forth the reasons why the State considers these meetings unnecessary because of the absence of problems associated with the planning and coordination of refugee placement. An approved exemption will remain in effect for three years, at which time a State may reapply.

(Approved by the Office of Management and Budget under control number 0960-0418)

[51 FR 3912, Jan. 30, 1986, as amended at 60 FR 33602, June 28, 1995]

§ 400.6 [Reserved]

§ 400.7 Submittal of the State plan and plan amendments for Governor's review.

A plan or plan amendment under title IV of the Act must be submitted to the State Governor or his or her designee, for review, comment, and signature before the plan is submitted to ORR.

[51 FR 3913, Jan. 30, 1986]

§ 400.8 Approval of State plans and plan amendments.

(a) The State agency must submit the State plan and plan amendments which have been signed by the Governor, or his or her designee, together with one copy of such plan or amendment, to the Director of ORR, or his or her designee, for approval. States are encouraged to consult with the Director, or his or her designee, when a plan or amendment is in preparation.

(b) The Director, or his or her designee, may initiate any necessary discussions with the State agency to clarify aspects of the plan.

(c) No later than 45 days after the State plan or plan amendment is submitted, the Director, or his or her designee, will—(1) Determine whether a State plan or plan amendment meets or continues to meet requirements for approval based on relevant Federal statutes and regulations, and (2) approve or disapprove the plan or plan amendment.

(d) The Director, or designee, will notify the State agency promptly of all actions taken on State plans and amendments.

(e) The effective date of an approved State plan or plan amendment may not be earlier than the first day of the calendar quarter in which the State agency submits the plan or plan amendment, except as otherwise approved by the Director.

[51 FR 3913, Jan. 30, 1986]

§ 400.9 Administrative review of decisions on approval of State plans and plan amendments.

(a) Any State dissatisfied with a determination by the Director, or his or her designee, under § 400.8 with respect to any plan or plan amendment may, within 60 days after the date of notification of such determination, file a petition with the Director, or designee, for reconsideration of the determination.

(b) A State may request that a hearing be held, but it is not required to do so.

(c) If a State requests a hearing, the Director, or designee, will notify the State within 30 days after receipt of

such a petition, of the time and location of the hearing to reconsider the issue.

(d) The hearing must be held not less than 30 days nor more than 60 days after the date the notice of the hearing is furnished to the State, unless the Director, or designee, and the State agree in writing on another time.

(e) The hearing procedures in part 213 of this title will be used except that:

(1) “The Director” is substituted where there is a reference to “the Administrator,” and

(2) “ORR Hearing Clerk” is substituted where there is reference to the “SRS Hearing Clerk.”

(f) The Director will affirm, modify, or reverse the original decisions within 60 days of the receipt of the State’s petition or, if a hearing is held, within 60 days after the hearing.

(g) The initial determination by the Director, or designee, that a plan or amendment is not approvable shall remain in effect pending the reconsideration.

(h) If the Director reverses the original decision, ORR will reimburse any funds incorrectly withheld or otherwise denied.

[51 FR 3913, Jan. 30, 1986]

§ 400.10 [Reserved]

AWARD OF GRANTS TO STATES

§ 400.11 Award of Grants to States.

(a) *Quarterly grants.* Subject to the availability of funds (and in accordance with the limitations of Subpart J of this part), ORR will make two types of quarterly grants to eligible States:

(1) *Grants for cash assistance, medical assistance, and related administrative costs (“CMA grants”).* for the following purposes: Cash assistance provided by a State or local public agency under the program of aid to families with dependent children (AFDC) under part A of title IV of the Social Security Act, under the adult assistance programs (AABD, AB, APTD, or OAA) in the territories, or under section 412(e) of the Immigration and Nationality Act; foster care maintenance provided under part E of title IV of the Social Security Act; State supplementary payments under section 1616(a) of the Social Se-

curity Act or section 212 of the Pub. L. 93–66; medical assistance under title XIX of the Social Security Act or under section 412(e) of the Immigration and Nationality Act; assistance and services to unaccompanied minors under section 412(d)(2)(B) of the Immigration and Nationality Act; and cash or medical assistance provided under a public assistance program established under authority other than Federal law and under which such assistance is generally available to needy individuals or families in similar circumstances within the State; and

(2) *Grants for social services, as set forth in this part.* ORR will compute the amount of the quarterly awards based on documents submitted by the State agency in accordance with this section and such other pertinent facts as the Director may find necessary.

(b) *Form and manner of State application for grant award—(1) CMA grants.* For quarterly grants for cash assistance, medical assistance, and related administrative costs, including assistance and services to unaccompanied minors (“CMA grants”), a State must submit to the Director, or designee, yearly estimates for reimbursable costs for the fiscal year, identified by type of expense, and a justification statement in support of the estimates no later than 45 days prior to the beginning of the fiscal year in accordance with guidelines prescribed by the Director.

(2) *Grants for refugee social services.* For quarterly grants for refugee social services, a State must submit to the Director, or designee, an annual plan developed on the basis of local consultative process on a form and at a time prescribed by the Director.

(3) *Quarterly adjustments.* If a State revises its estimates required in paragraph (b)(1), it must submit to the Director, or designee, the revisions, accompanied by a justification statement, no later than 30 days prior to the beginning of the quarter in which the revision or adjustment applies.

(c) *Financial status report.* A State must submit to the Director, or designee, a financial status report described in § 74.73(a) of this title, no later than 30 days after the end of each quarter. Final financial reports must

be submitted in accordance with the requirements described in § 400.210.

(d) *Review.* ORR will determine whether the State's description of services, estimates, other relevant information, and any adjustments to be made for prior periods meet the requirements under this part, and will compute the quarterly award.

(e) *Grant award.* (1) ORR will transmit to the State the grant award form showing, by type of assistance, the amount of the award.

(2) The State may draw funds, under the Department's Payment Management System (PMS), as needed, to meet the Federal share of disbursements.

(Approved by the Office of Management and Budget under control number 0960-0418)

[51 FR 3913, Jan. 30, 1986, as amended at 54 FR 5475, Feb. 3, 1989; 60 FR 33602, June 28, 1995]

§ 400.12 Adverse determinations concerning State grants.

(a) *Policy.* The Secretary has established a Departmental Grant Appeals Board for the purpose of reviewing and providing hearings on post-award disputes which may arise in the administration of certain grant programs by constituent agencies of HHS. Section 16.3(c) of this title mandates an appellant to exhaust any preliminary appeal process required by regulation before a formal appeal to the Board will be allowed. Paragraph (d) of this section provides an informal preliminary appeal process for resolution of such disputes within ORR prior to appeal to the Board.

(b) *Scope.* Adverse determinations to which this procedure is applicable are as follows:

(1) Termination, in whole or in part, of a grant for failure of the grantee to carry out its approved project or program in accordance with applicable law and the terms and conditions of such assistance or for failure of the grantee otherwise to comply with any law, regulation, assurance, term, or condition applicable to the grant.

(2) A determination that an expenditure not allowable under the grant has been charged to the grant or that the grantee has otherwise failed to dis-

charge its obligation to account for grant funds.

(3) The disapproval of a grantee's written request for permission to incur an expenditure during the term of a grant.

(4) A determination that a grant is void because the award was obtained fraudulently, or was otherwise illegal or invalid from inception.

(c) *Notice of adverse determination.* If the Director, or his or her designee, makes an adverse determination with respect to a grant, he or she shall promptly issue a notice of adverse determination to the State which contains the reasons for the determination in sufficient detail to enable the State agency to respond and informing the State agency of the opportunity for review under paragraph (d) of this section.

(d) *Request for review of an adverse determination.* (1) If the State agency wants a review of the determination, it must submit a request for such review to the Director no later than 30 days after the postmark on the notice, unless an extension of time is granted for good cause.

(2) The request for review must contain a full statement of the State's position with respect to the determination being appealed and the pertinent facts and reasons in support of such position. The State agency must attach to the submission a copy of the notice.

(3) The Director may, at his or her discretion, invite the State to discuss pertinent issues and to submit such additional information as he or she deems appropriate.

(4) Based on his or her review, the Director will send a written response to the State. If the response is adverse to the State's position, the correspondence shall state the State's right to appeal to the Departmental Grant Appeals Board, pursuant to part 16 of this title.

(e) *Request for appeal of an adverse determination.* (1) To appeal an adverse determination, a State agency must file an appeal with the Departmental Grant Appeals Board, in accordance with requirements contained in part 16 of this title.

(2) The State's application for review must be postmarked no later than 30

days after the postmark on the Director's response to the State's request for review in paragraph (d)(4) of this section.

[51 FR 3914, Jan. 30, 1986]

§ 400.13 Cost allocation.

(a) A State must allocate costs, both direct and indirect, appropriately between the Refugee Resettlement Program (RRP) and other programs which it administers.

(b) Within the RRP, a State must allocate costs appropriately among its CMA grant, social services grant, and any other Refugee Resettlement Program (RRP) grants which it may receive, as prescribed by the Director.

(c) Certain administrative costs incurred for the overall management of the State's refugee program (e.g., development of the State plan, overall program coordination, and salary and travel costs of the State Refugee Coordinator), as identified by the Director, may be charged to the CMA grant. All other costs must be allocated among the CMA grant, social services grant, and any other Refugee Resettlement Program (RRP) grants.

(d) Costs of case management services, as defined in § 400.2, may not be charged to the CMA grant.

[54 FR 5476, Feb. 3, 1989, as amended at 60 FR 33602, June 28, 1995]

Subpart C—General Administration

SOURCE: 51 FR 3914, Jan. 30, 1986, unless otherwise noted.

§§ 400.20—400.21 [Reserved]

§ 400.22 Responsibility of the State agency.

(a) The State agency may not delegate, to other than its own officials, responsibility for administering or supervising the administration of the plan.

(b) The State agency must have—

(1) Methods for informing staff of State policies, standards, procedures, and instructions; and

(2) Systematic planned examination and evaluation of operations in local offices.

§ 400.23 Hearings.

(a) A State must provide applicants for, and recipients of, assistance and services under the Act with an opportunity for a hearing to contest adverse determinations using hearing procedures set forth in § 205.10(a) of this title for public assistance programs.

(b) If the issue is the date of entry into the United States of an applicant for or recipient of assistance or services, the State must provide for prompt resolution of the issue by inspection of the individual's documentation issued by the Immigration and Naturalization Service (INS) or by information obtained from INS, rather than by hearing.

§ 400.24 [Reserved]

§ 400.25 Residency requirements.

A State may not impose requirements as to duration of residence as a condition of participation in the State's program for the provision of assistance or services.

§ 400.26 [Reserved]

§ 400.27 Safeguarding and sharing of information.

(a) Except for purposes directly connected with, and necessary to, the administration of the program, a State must ensure that no information about, or obtained from, an individual and in possession of any agency providing assistance or services to such individual under the plan, will be disclosed in a form identifiable with the individual without the individual's consent, or if the individual is a minor, the consent of his or her parent or guardian.

(b) The provision by a State to a voluntary resettlement agency, as defined in § 400.2, of information as to whether an individual has applied for or is receiving cash assistance and the individual's address and telephone number is to be considered undertaken for a purpose directly connected with, and necessary to, the administration of the program during the first 36 months after such individual's entry into the United States.

(c) The disclosure of information for any purpose set forth in § 205.50(a) of

this title shall be considered undertaken for a purpose directly connected with, and necessary to, the administration of the program.

[51 FR 3914, Jan. 30, 1986, as amended at 54 FR 5476, Feb. 3, 1989]

§ 400.28 Maintenance of records and reports.

(a) A State must provide for the maintenance of such operational records as are necessary for Federal monitoring of the State's refugee resettlement program in accordance with part 74, Subpart D, of this title. This recordkeeping must include:

- (1) Documentation of services and assistance provided, including identification of individuals receiving those services;
- (2) Records on the location, progress, and status of unaccompanied minor refugee children, including the last known address of parents; and
- (3) Documentation that necessary medical followup services and monitoring have been provided.

(b) A State must submit statistical or programmatic information that the Director determines to be required to fulfill his or her responsibility under the Act on refugees who receive assistance and services which are provided, or the costs of which are reimbursed, under the Act.

(Approved by the Office of Management and Budget under control number 0960-0418)

Subpart D—Immigration Status and Identification of Refugees

SOURCE: 51 FR 3915, Jan. 30, 1986, unless otherwise noted.

§ 400.40 Scope.

This subpart sets forth requirements concerning the immigration status and identification of eligible applicants for assistance under title IV of the Act.

§ 400.41 Definitions

For purposes of this subpart—

Applicant for asylum means an individual who has applied for, but has not been granted, asylum under section 208 of the Act.

Asylee means an individual who has been granted asylum under section 208 of the Act.

DOCUMENTATION OF REFUGEE STATUS

§ 400.43 Requirements for documentation of refugee status.

(a) An applicant for assistance under title IV of the Act must provide proof, in the form of documentation issued by the Immigration and Naturalization Service (INS), of one of the following statuses under the Act as a condition of eligibility:

- (1) Paroled as a refugee or asylee under section 212(d)(5) of the Act;
- (2) Admitted as a conditional entrant under section 203(a)(7) of the Act;
- (3) Admitted as a refugee under section 207 of the Act;
- (4) Granted asylum under section 208 of the Act;
- (5) Admitted with an immigration status that entitled the individual to refugee assistance prior to enactment of the Refugee Act of 1980, as specified by the Director; or
- (6) Admitted for permanent residence, provided the individual previously held one of the statuses identified above.

(b) The Director will issue instructions specifying the documentation that applicants for assistance must submit.

§ 400.44 Restriction.

An applicant for asylum is not eligible for assistance under title IV of the Act.

Subpart E—Refugee Cash Assistance

SOURCE: 54 FR 5476, Feb. 3, 1989, unless otherwise noted.

§ 400.50 Basis and scope.

This subpart sets forth requirements concerning grants to States under section 412(e) of the Act for refugee cash assistance (RCA).

§ 400.51 Definitions.

For purposes of this subpart—

Filing unit means the individual or individuals whose needs are considered in determining eligibility for, and the

amount of, an assistance payment for which FF [Federal funding] is claimed under this part.

Household means the individual or individuals living in a housing unit.

§ 400.52 Recovery of overpayments and correction of underpayments.

The State agency must comply with regulations at § 233.20(a)(13) of this title governing recovery of overpayments and correction of underpayments in the AFDC program.

APPLICATIONS, DETERMINATIONS OF ELIGIBILITY, AND FURNISHING ASSISTANCE

§ 400.55 Opportunity to apply for cash assistance.

(a) A State must provide any individual wishing to do so, an opportunity to apply for cash assistance and must determine the eligibility of each applicant.

(b) In determining eligibility for cash assistance, the State must—

(1) Comply with regulations at part 206 of this title governing applications, determinations of eligibility, and furnishing assistance under public assistance programs, as applicable to the AFDC program;

(2) Determine eligibility for other cash assistance programs in accordance with § 400.56 of this part;

(3) Verify with the applicant's sponsor or the resettlement agency the amount of financial assistance which the sponsor or resettlement agency is actually providing to the applicant and count any such assistance, provided in cash and, if the State counts in-kind assistance in its AFDC program, in kind, in considering income and resources of applicants under § 400.61 of this part; and

(4) Contact the applicant's sponsor or the resettlement agency concerning offers of employment and inquire whether the applicant has voluntarily quit employment or has refused to accept an offer of employment within 30 consecutive days immediately prior to the date of application, in accordance with § 400.77(a) of this part.

(c) Notwithstanding any other provision of law, the State must notify promptly the agency (or local affiliate) which provided for the initial resettlement

of a refugee whenever the refugee applies for cash assistance.

(d) In providing notice to an applicant or recipient to indicate that assistance has been authorized or that it has been denied or terminated, the State must specify the program(s) to which the notice applies, clearly distinguishing between refugee cash assistance and other programs such as AFDC and GA. For example, if a refugee applies for assistance, is determined ineligible for AFDC but eligible for refugee cash assistance, the notice to the applicant must specify clearly the determinations with respect both to AFDC and to refugee cash assistance. Similarly, if a recipient of refugee cash assistance is notified of termination because of reaching the time limit on such assistance, and the State reviews the case file to determine possible eligibility for AFDC or GA, the notice to the recipient must indicate the result of that determination as well as the termination of refugee cash assistance.

§ 400.56 Determination of eligibility under other programs.

(a) *AFDC.* (1) The State must determine eligibility under the AFDC program for refugees who apply for cash assistance.

(2) A State must provide cash assistance under the AFDC program to all refugees who apply for and are eligible under that program.

(3) If the appropriate State agency determines that the refugee applicant is not eligible for cash assistance under the AFDC program, the State must determine eligibility for refugee cash assistance in accordance with § 400.60.

(b) *Cash assistance to the aged, blind, and disabled—*(1) *SSI.* (i) The State agency must refer refugees who are 65 years of age or older, or who are blind or disabled, promptly to the Social Security Administration, HHS, to apply for cash assistance under the SSI program.

(ii) If the State agency determines that a refugee who is 65 years of age or older, or blind or disabled, is eligible for refugee cash assistance, it must furnish such assistance until eligibility

for cash assistance under the SSI program is determined, provided the conditions of eligibility for refugee cash assistance continue to be met.

(2) *OAA, AB, APTD, or AABD.* In Guam, Puerto Rico, and the Virgin Islands—(i) Eligibility for cash assistance under the OAA, AB, APTD, or AABD program must be determined for refugees who are 65 years or older, or who are blind or disabled; and

(ii) If a refugee who is 65 years of age or older, or blind or disabled, is determined to be eligible for refugee cash assistance, such assistance must be furnished until eligibility for cash assistance under the OAA, AB, APTD, or AABD program is determined, provided the conditions of eligibility for refugee cash assistance continue to be met.

§ 400.57 Emergency cash assistance to refugees.

If the State agency determines that a refugee has an urgent need for cash assistance, it should process the application for cash assistance as quickly as possible and issue the initial payment to the refugee on an emergency basis.

CONDITIONS OF ELIGIBILITY FOR REFUGEE CASH ASSISTANCE

§ 400.60 General eligibility requirements.

(a) Eligibility for refugee cash assistance is limited to those who—

(1) Are ineligible for cash assistance under the AFDC, SSI, OAA, AB, APTD, and AABD programs but meet refugee cash assistance need standards;

(2) Meet immigration status and identification requirements in Subpart D of this part or are the dependent children of, and part of the same filing unit as, individuals who meet the requirements in Subpart D, subject to the limitation in § 400.208 of this part with respect to nonrefugee children;

(3) Meet eligibility requirements and conditions in this subpart;

(4) Meet the requirements contained in Subpart F of this part;

(5) Provide the name of the resettlement agency which resettled them; and

(6) Are not full-time students in institutions of higher education, as defined by the Director, except where such enrollment is approved by the

State, or its designee, as part of an individual employability plan for a refugee under § 400.79 of this part.

(b) A refugee may be eligible for refugee cash assistance under this subpart during a period to be determined by the Director in accordance with § 400.211.

[45 FR 59323, Sept. 9, 1980, as amended at 58 FR 46090, Sept. 1, 1993; 58 FR 64507, Dec. 8, 1993]

§ 400.61 Consideration of income and resources.

(a) In considering the income and resources of applicants for and recipients of refugee cash assistance, the State agency must apply the regulations at § 233.20(a)(3) through (11) of this title for considering income and resources of AFDC applicants, except that the State agency may not apply the earned income disregard of \$30 plus one-third of the remainder of the earnings or the disregard of \$30 set out in § 233.20(a)(11)(ii)(B) of this title.

(b) The State agency may not consider any resources remaining in the applicant's country of origin to be accessible to an applicant for or recipient of refugee cash assistance.

(c) The State agency may not consider a sponsor's income and resources to be accessible to a refugee solely because the person is serving as a sponsor.

§ 400.62 Need standards and payment levels.

(a) In determining need for refugee cash assistance, a State agency must use the State's AFDC need standards established under § 233.20(a)(1) and (2) of this title.

(b) In determining the amount of the refugee cash assistance payment to an eligible refugee who meets the standards in paragraph (a) of this section and applying the consideration of income and resources in § 400.61, a State must pay 100 percent of the payment level which would be appropriate for an eligible filing unit of the same size under the AFDC program.

(c) The date refugee cash assistance begins must be the same date, in relation to the date of application, as assistance would begin under a State's

plan for AFDC under § 206.10(a)(6) of this title.

[51 FR 3914, Jan. 30, 1986, as amended at 60 FR 33602, June 28, 1995]

§ 400.63 Proration of shelter, utilities, and similar needs.

If a State prorates allowances for shelter, utilities, and similar needs in its AFDC program under § 233.20(a)(5) of this title, it must prorate such allowances in the same manner in its refugee cash assistance programs.

§ 400.64 Other AFDC requirements applicable to refugee cash assistance.

In administering the program of refugee cash assistance, the State agency must also apply the following AFDC regulations in this title:

233.31 Budgeting methods for AFDC.

233.32 Payment and budget months (AFDC).

233.33 Determining eligibility prospectively for all payment months (AFDC).

233.34 Computing the assistance payment in the initial one or two months (AFDC).

233.35 Computing the assistance payment under retrospective budgeting after the initial one or two months (AFDC).

233.36 Monthly reporting (AFDC)—which shall apply to recipients of refugee cash assistance who have been in the United States more than 6 months.

233.37 How monthly reports are treated and what notices are required (AFDC).

235.110 Fraud.

Subpart F—Requirements for Employability Services and Employment

SOURCE: 54 FR 5477, Feb. 3, 1989, unless otherwise noted.

§ 400.70 Basis and scope.

This subpart sets forth requirements for applicants for and recipients of ref-

ugee cash assistance concerning registration for employment services, participation in social services or targeted assistance, and acceptance of appropriate employment under section 412(e)(2)(A) of the Act. A refugee who is an applicant for or recipient of refugee cash assistance must comply with the requirements in this subpart.

[60 FR 33602, June 28, 1995]

§ 400.71 Definitions.

For purposes of this subpart and Subpart I—

Appropriate agency providing employment services means an agency providing services specified under § 400.154(a) of this part which are specifically designed to assist refugees in becoming employed, which must include an established program of job referral to, and job placement with, private employers, and which must be determined acceptable by the State.

Designee, when referring to the State agency's designee, means an agency designated by the State agency for the purpose of carrying out the requirements of § 400.72(a) of this subpart.

Employability plan means an individualized written plan for a refugee registered for employment services that sets forth a program of services intended to result in the earliest possible employment of the refugee.

Employability services means services, as specified in § 400.154 of this part, designed to enable an individual to obtain employment and to improve the employability or work skills of the individual.

Employable means not exempt from registration for employment services under § 400.76 of this part.

Employment services means the services specified in § 400.154(a) of this part.

Family self-sufficiency plan means a plan that addresses the employment-related service needs of the employable members in a family for the purpose of enabling the family to become self-supporting through the employment of one or more family members.

Registrant means an individual who has registered for employment services under § 400.75 of this part.

[54 FR 5477, Feb. 3, 1989, as amended at 60 FR 33602, June 28, 1995]

§ 400.72 Arrangements for employability services.

(a) The State agency must make such arrangements as are necessary to enable refugees to meet the requirements of, and receive the employability services specified in, this subpart.

(b) If a State agency makes such arrangements with another agency or agencies, it must retain responsibility for meeting the requirements in this subpart.

(c) In order for an agency to qualify to receive referrals from the State agency of refugees required to register for employability services, such agency must agree to advise the State agency whenever such a refugee fails or refuses to participate in the required services or to accept an offer of employment.

GENERAL REQUIREMENTS

§ 400.75 Registration for employment services, participation in employability service programs and targeted assistance programs, going to job interviews, and acceptance of appropriate offers of employment.

(a) As a condition for receipt of refugee cash assistance, a refugee who is not exempt under § 400.76 of this subpart must, except for good cause shown—

(1) Register with an “appropriate agency providing employment services,” as defined in § 400.71, and within 30 days of receipt of aid participate in the employment services provided by such agency, as defined in § 400.154(a) of this part.

(2) Go to a job interview which is arranged by the State agency or its designee.

(3) Accept at any time, from any source, an offer of employment, as determined to be appropriate by the State agency or its designee.

(4) Participate in any employability service program which provides job or language training in the area in which the refugee resides, which is funded under section 412(c) of the Act, and which is determined to be available and appropriate for that refugee; or if such a program funded under section 412(c) is not available or appropriate in the area in which the refugee resides, any other available and appropriate program in such area.

(5) Participate in any targeted assistance program in the area in which the refugee resides, which is funded under section 412(c) of the Act, and which is determined to be available and appropriate for that refugee.

(6)(i) Accept an offer of employment which is determined to be appropriate by the resettlement agency which was responsible for the initial resettlement of the refugee or by the appropriate State or local employment service;

(ii) Go to a job interview which is arranged through such agency or service; and

(iii) Participate in a social service or targeted assistance program which such agency or service determines to be available or appropriate.

(b) The State agency must permit, but may not require, the voluntary registration for employment services of an applicant or recipient who is exempt under § 400.76 of this part.

[54 FR 5477, Feb. 3, 1989, as amended at 60 FR 33602, June 28, 1995]

§ 400.76 Criteria for exemption from registration for employment services, participation in employability service programs, and acceptance of appropriate offers of employment.

(a) The State agency must consider an applicant for or recipient of refugee cash assistance to be employable and require him or her to meet the requirements of § 400.75(a) unless the applicant or recipient is—

(1) Under age 16.

(2) Under age 18 and a full-time student (as defined by the State for its AFDC program); or (if the State's AFDC program extends coverage to this group) age 18 and a full-time student in secondary school or in the equivalent level of vocational or technical training (as defined by the State for its AFDC program) and reasonably expected to complete the program before reaching age 19.

(3) Ill, when determined by the State agency on the basis of medical evidence or on another sound basis that the illness or injury is serious enough to temporarily prevent entry into employment or training.

(4) Incapacitated, when determined by a physician or licensed or certified

psychologist and verified by the State agency, that a physical or mental impairment, by itself or in conjunction with age, prevents the individual from engaging in employment or training.

(5) 65 years of age or older.

(6) Caring for another member of the household who has a physical or mental impairment which requires, as determined by a physician or licensed or certified psychologist and verified by the State agency, care in the home on a substantially continuous basis, and no other appropriate member of the household is available.

(7) A parent or other caretaker relative of a child under age 3 who personally provides full-time care of the child with only very brief and infrequent absences from the child. Only one parent or other relative in a case may be exempt under this paragraph.

(8) Working at least 30 hours a week in unsubsidized employment expected to last a minimum of 30 days. This exemption continues to apply if there is a temporary break in full-time employment expected to last no longer than 10 workdays. Or

(9) Pregnant if it has been medically verified that the child is expected to be born in the month in which such registration would otherwise be required or within the next 6 months.

(b) Inability to communicate in English does not exempt a refugee from registration for employment services, participation in employability service programs, and acceptance of appropriate offers of employment.

[54 FR 5477, Feb. 3, 1989, as amended at 60 FR 33602, June 28, 1995]

§ 400.77 Effect of quitting employment or failing or refusing to participate in required services.

(a) As a condition of eligibility for refugee cash assistance, an employable applicant may not, without good cause, within 30 consecutive calendar days immediately prior to the application for assistance (or such longer period required by § 400.82(b)(3)(ii), if applicable), have voluntarily quit employment or have refused to accept an offer of employment determined to be appropriate by the State agency or its designee, using criteria set forth in § 400.81.

(b) As a condition of continued receipt of refugee cash assistance, an employable recipient may not, without good cause, voluntarily quit employment or fail or refuse to meet the requirements of § 400.75(a).

§ 400.78 Service requirements for employed recipients of refugee cash assistance.

(a) As a condition of continued receipt of refugee cash assistance, a recipient who is not exempt under § 400.76 of this part and who is employed less than 30 hours a week must accept part-time employability services, as available and as determined to be appropriate, using criteria set forth in § 400.81 of this part, provided that such services must not interfere with the recipient's job.

(b) A State agency may, but is not required to, require part-time employability services if a recipient of refugee cash assistance is employed at least 30 hours a week, provided that such services must not interfere with the recipient's job.

§ 400.79 Development of an employability plan.

(a) An individual employability plan must be developed as part of a family self-sufficiency plan where applicable for each recipient of refugee cash assistance in a filing unit who is not exempt under § 400.76 of this part.

(b) If such a plan has been developed by the resettlement agency which sponsored the refugee, or its designee, the State agency, or its designee, may accept this plan if it determines that the plan is appropriate for the refugee and meets the requirements of this subpart.

(c) The employability plan must—

(1) Be designed to lead to the earliest possible employment and not be structured in such a way as to discourage or delay employment or job-seeking;

(2) Contain a definite employment goal, attainable in the shortest time period consistent with the employability of the refugee in relation to job openings in the area; and

[54 FR 5477, Feb. 3, 1989, as amended at 60 FR 33602, June 28, 1995]

JOB SEARCH REQUIREMENTS

§ 400.80 Job search requirements.

A State must require job search for employable refugees where appropriate.

[60 FR 33602, June 28, 1995]

CRITERIA FOR APPROPRIATE EMPLOYABILITY SERVICES AND EMPLOYMENT

§ 400.81 Criteria for appropriate employability services and employment.

The State agency or its designee must determine if employability services and employment are appropriate in accordance with the following criteria:

(a) The services or employment must meet the following criteria, or, if approved by the Director, the comparable criteria applied by the State in an alternative program for AFDC recipients:

(1) All assignments must be within the scope of the individual's employability plan. The plan may be modified to reflect changed services or employment conditions.

(2) The services or employment must be related to the capability of the individual to perform the task on a regular basis. Any claim of adverse effect on physical or mental health must be based on adequate medical testimony from a physician or licensed or certified psychologist indicating that participation would impair the individual's physical or mental health.

(3) The total daily commuting time to and from home to the service or employment site must not normally exceed 2 hours, not including the transporting of a child to and from a child care facility, unless a longer commuting distance or time is generally accepted in the community, in which case the round trip commuting time must not exceed the generally accepted community standards.

(4) When child care is required, the care must meet the standards normally required by the State in its work and training programs for AFDC recipients.

(5) The service or work site to which the individual is assigned must not be in violation of applicable Federal, State, or local health and safety standards.

(6) Assignments must not be made which are discriminatory in terms of age, sex, race, creed, color, or national origin.

(7) Appropriate work may be temporary, permanent, full-time, part-time, or seasonal work if such work meets the other standards of this section.

(8) The wage shall meet or exceed the Federal or State minimum wage law, whichever is applicable, or if such laws are not applicable, the wage shall not be substantially less favorable than the wage normally paid for similar work in that labor market.

(9) The daily hours of work and the weekly hours of work shall not exceed those customary to the occupation. And

(10) No individual may be required to accept employment if:

(i) The position offered is vacant due to a strike, lockout, or other bona fide labor dispute; or

(ii) The individual would be required to work for an employer contrary to the conditions of his existing membership in the union governing that occupation. However, employment not governed by the rules of a union in which he or she has membership may be deemed appropriate.

(11) In addition to meeting the other criteria of this paragraph, the quality of training must meet local employers' requirements so that the individual will be in a competitive position within the local labor market. The training must also be likely to lead to employment which will meet the appropriate work criteria.

(b) If an individual is a professional in need of professional refresher training and other recertification services in order to qualify to practice his or her profession in the United States, the training may consist of full-time attendance in a college or professional training program, provided that such training: Is approved as part of the individual's employability plan by the State agency, or its designee; does not exceed one year's duration (including any time enrolled in such program in the United States prior to the refugee's application for assistance); is specifically intended to assist the professional in becoming relicensed in his or

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her profession; and, if completed, can realistically be expected to result in such relicensing.

(c) A job offered, if determined appropriate under the requirements of this subpart, is required to be accepted by the refugee without regard to whether such job would interrupt a program of services planned or in progress unless:

(1) The refugee is currently participating in a program *in progress* of on-the-job training (as described in § 400.154(c)) or vocational training (as described in § 400.154(e)) which meets the requirements of this part and which is being carried out as part of an approved employability plan; or

(2) The refugee is enrolled full-time in a professional recertification program which meets the requirements of paragraph (b) of this section.

FAILURE OR REFUSAL TO ACCEPT EMPLOYABILITY SERVICES OR EMPLOYMENT

§ 400.82 Failure or refusal to accept employability services or employment.

(a) *Voluntary registrant.* When a voluntary registrant—i.e., a recipient of refugee cash assistance who is exempt from registration under § 400.76 of this part—has failed or refused to participate in appropriate employability services, or to accept an appropriate offer of employment, the State agency, or its designee, may deregister the individual for up to 90 days from the date of determination that such failure or refusal has occurred, but the individual's cash assistance may not be affected.

(b) *Mandatory registrant—(1) Termination of assistance.* When, without good cause, a mandatory registrant—i.e., an employable recipient of refugee cash assistance who is not exempt from registration under § 400.76 of this part—has failed or refused to meet the requirements of § 400.75(a) or has voluntarily quit a job, the State must terminate assistance, in accordance with paragraphs (b)(2) and (3) of this section.

(2) *Notice of intended termination.* (i) In cases of proposed action to terminate, discontinue, suspend, or reduce assistance, the State agency must give time-

ly and adequate notice, following the same procedures as those used in its AFDC program under § 206.10(a)(7) of this title.

(ii) The written notice must include—

(A) An explanation of the reason for the action and the consequences of such failure or refusal; and

(B) Notice of the registrant's right to a hearing under § 400.83 of this part.

(3) *Sanctions.* (i) If the sanctioned individual is the only member of the filing unit, the assistance shall be terminated. If the filing unit includes other members, the State shall not take into account the sanctioned individual's needs in determining the filing unit's need for assistance.

(ii) The sanction applied in paragraph (b)(3)(i) of this section shall remain in effect for 3 payment months for the first such failure and 6 payment months for any subsequent such failure.

[54 FR 5477, Feb. 3, 1989, as amended at 60 FR 33602, June 28, 1995]

§ 400.83 Conciliation and fair hearings.

(a) A conciliation period prior to the imposition of sanctions must be provided for in accordance with the following time-limitations: The conciliation effort shall begin as soon as possible, but no later than 10 days following the date of failure or refusal to participate, and may continue for a period not to exceed 30 days. Either the State or the recipient may terminate this period sooner when either believes that the dispute cannot be resolved by conciliation.

(b) The State must provide an applicant for or recipient of refugee cash assistance an opportunity for a hearing, using the same procedures and standards set forth in § 205.10(a) of this title, to contest a determination concerning employability, or failure or refusal to carry out job search or to accept an appropriate offer of employability services or employment, resulting in denial or termination of assistance.

[54 FR 5477, Feb. 3, 1989, as amended at 60 FR 33602, June 28, 1995]

Subpart G—Refugee Medical Assistance

SOURCE: 54 FR 5480, Feb. 3, 1989, unless otherwise noted.

§ 400.90 Basis and scope.

This subpart sets forth requirements concerning grants to States under section 412(e) of the Act for refugee medical assistance (RMA), as defined at § 400.2 of this part.

§ 400.91 Definitions.

For purposes of this subpart—

Medically needy means individuals who are eligible for medical assistance under a State's approved Medicaid State plan in accordance with section 1902(a)(10)(C) of the Social Security Act.

Spend down means to deduct from countable income incurred medical expenses, thereby lowering the amount of countable income to a level that meets financial eligibility requirements in accordance with 42 CFR 435.831 (or, as applicable to Guam, the Virgin Islands, and Puerto Rico, 42 CFR 436.831).

APPLICATIONS, DETERMINATIONS OF ELIGIBILITY, AND FURNISHING ASSISTANCE

§ 400.93 Opportunity to apply for medical assistance.

(a) A State must provide any individual wishing to do so an opportunity to apply for medical assistance and must determine the eligibility of each applicant.

(b) In determining eligibility for medical assistance, the State agency must comply with regulations governing applications, determinations of eligibility, and furnishing Medicaid (including the opportunity for fair hearings) in the States and the District of Columbia under 42 CFR part 435, subpart J, and in Guam, Puerto Rico, and the Virgin Islands under 42 CFR part 436, subpart J, and 42 CFR part 431, subpart E.

(c) Notwithstanding any other provision of law, the State must notify promptly the agency (or local affiliate) which provided for the initial resettlement of a refugee whenever the refugee applies for medical assistance.

(d) In providing notice to an applicant or recipient to indicate that assistance has been authorized or that it has been denied or terminated, the State must specify the program(s) to which the notice applies, clearly distinguishing between refugee medical assistance and Medicaid. For example, if a refugee applies for assistance, is determined ineligible for Medicaid but eligible for refugee medical assistance, the notice must specify clearly the determinations with respect both to Medicaid and to refugee medical assistance.

§ 400.94 Determination of eligibility for Medicaid.

(a) The State must determine Medicaid eligibility under its Medicaid State plan for each individual member of a family unit that applies for medical assistance.

(b) A State that provides Medicaid to medically needy individuals in the State under its State plan must determine a refugee applicant's eligibility for Medicaid as medically needy.

(c) A State must provide medical assistance under the Medicaid program to all refugees eligible under its State plan.

(d) If the appropriate State agency determines that the refugee applicant is not eligible for Medicaid under its State plan, the State must determine the applicant's eligibility for refugee medical assistance.

[54 FR 5480, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995]

CONDITIONS OF ELIGIBILITY FOR REFUGEE MEDICAL ASSISTANCE

§ 400.100 General eligibility requirements.

(a) Eligibility for refugee medical assistance is limited to those refugees who—

(1) Are ineligible for Medicaid but meet the financial eligibility standards under § 400.101;

(2) Meet immigration status and identification requirements in subpart D of this part or are the dependent children of, and part of the same filing unit as, individuals who meet the requirements in subpart D, subject to the

limitation in § 400.208 of this part with respect to nonrefugee children;

(3) Meet eligibility requirements and conditions in this subpart;

(4) Have not been denied, or terminated from, refugee cash assistance under § 400.82 of this part;

(5) Provide the name of the resettlement agency which resettled them; and

(6) Are not full-time students in institutions of higher education, as defined by the Director, except where such enrollment is approved by the State, or its designee, as part of an individual employability plan for a refugee under § 400.79 of this part or a plan for an unaccompanied minor in accordance with § 400.112.

(b) A refugee may be eligible for refugee medical assistance under this subpart during a period of time to be determined by the Director in accordance with § 400.211.

(c) The State agency may not require that a refugee actually receive or apply for refugee cash assistance as a condition of eligibility for refugee medical assistance.

(d) All recipients of refugee cash assistance who are not eligible for Medicaid are eligible for refugee medical assistance.

[45 FR 59323, Sept. 9, 1980, as amended at 58 FR 46090, Sept. 1, 1993; 58 FR 64507, Dec. 8, 1993; 60 FR 33603, June 28, 1995]

§ 400.101 Financial eligibility standards.

In determining eligibility for refugee medical assistance, the State agency must use—

(a) In States with medically needy programs under 42 CFR Part 435, Subpart D, the State's medically needy financial eligibility standards established under 42 CFR Part 435, Subpart I, and as reflected in the State's approved title XIX State Medicaid plan; and

(b) In States without a medically needy program, the State's AFDC need standards established under § 233.20(a)(2) of this title.

§ 400.102 Consideration of income and resources.

(a) Except as specified in paragraph (b) of this section, in considering financial eligibility of applicants for refugee

medical assistance, the State agency must use—

(1) In States with medically needy programs, the standards governing determination of income eligibility in 42 CFR 435.831, and as reflected in the State's approved title XIX State Medicaid plan; and

(2) In States without medically needy programs, the standards governing consideration of income and resources of AFDC applicants in § 233.20(a) (3) through (11) of this title, except as specified in § 400.61(a) of this part.

(b) The State may not consider in-kind services and shelter provided to an applicant by a sponsor or resettlement agency in determining eligibility for and receipt of refugee medical assistance.

§ 400.103 Coverage of refugees who spend down to AFDC need standard.

In States without a medically needy program, if an applicant for refugee medical assistance does not meet the appropriate AFDC need standard, the State agency must allow that individual to spend down to the AFDC need standard using the methods for deducting incurred medical expenses set forth in 42 CFR 435.831(c).

§ 400.104 Continued coverage of recipients who receive increased earnings from employment.

If a refugee who is receiving refugee medical assistance receives increased earnings from employment, the increased earnings shall not affect the refugee's continued medical assistance eligibility. The refugee shall continue to receive refugee medical assistance until he/she reaches the end of his or her time-eligibility period for refugee medical assistance, in accordance with § 400.100(b). In cases where a refugee obtains private medical coverage, any payment of RMA for that individual must be reduced by the amount of the third party payment.

[60 FR 33603, June 28, 1995]

SCOPE OF MEDICAL SERVICES

§ 400.105 Mandatory services.

In providing refugee medical assistance to refugees, a State must provide

at least the same services in the same manner and to the same extent as under the State's Medicaid program, as delineated in 42 CFR Part 440.

§ 400.106 Additional services.

If a State or local jurisdiction provides additional medical services beyond the scope of the State's Medicaid program to destitute residents of the State or locality through public facilities, such as county hospitals, the State may provide to refugees who are determined eligible under §§ 400.94, only to the extent that sufficient funds are appropriated, or 400.100 of this part the same services through public facilities.

[54 FR 5480, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995]

§ 400.107 Medical screening.

(a) As part of its refugee medical assistance program, a State may provide a medical screening to a refugee provided—

(1) The screening is in accordance with requirements prescribed by the Director, or his or her designee; and

(2) Written approval for the screening program or project has been provided to the State by the Director, or designee.

(b) If such assessment is done during the first 90 days after a refugee's initial date of entry into the United States, it may be provided without prior determination of the refugee's eligibility under §§ 400.94 or 400.100 of this part.

[54 FR 5480, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995]

Subpart H—Child Welfare Services

SOURCE: 51 FR 3915, Jan. 30, 1986, unless otherwise noted.

§ 400.110 Basis and scope.

This subpart prescribes requirements concerning grants to States under section 412(d)(2)(B) of the Act for child welfare services to refugee unaccompanied minors.

§ 400.111 Definitions.

For purposes of this subpart—

Child welfare agency means an agency licensed or approved under State law to

provide child welfare services to children in the State.

Unaccompanied minor means a person who has not yet attained 18 years of age (or a higher age established by the State of resettlement in its child welfare plan under title IV-B of the Social Security Act for the availability of child welfare services to any other child in the State); who entered the United States unaccompanied by and not destined to (a) a parent or (b) a close nonparental adult relative who is willing and able to care for the child or (c) an adult with a clear and court-verifiable claim to custody of the minor; and who has no parent(s) in the United States. *Limitation:* No child may be considered by a State to be *unaccompanied* for the purpose of this part unless such child was identified by INS at the time of entry as *unaccompanied*, except that a child who was correctly classified as *unaccompanied* by a State in accordance with Action Transmittal SSA-AT-79-04 (and official interpretations thereof by the Director) prior to the effective date of this definition may continue to be so classified until such status is terminated in accordance with § 400.113(b) of this subpart; and the Director may approve the classification of a child as *unaccompanied* on the basis of information provided by a State showing that such child should have been classified as *unaccompanied* at the time of entry.

Title IV-B plan means a State's plan for providing child welfare services to children in the State under part B of title IV of the Social Security Act.

§ 400.112 Child welfare services for refugee children.

(a) In providing child welfare services to refugee children in the State, a State must provide the same child welfare services and benefits to the same extent as are provided to other children of the same age in the State under a State's title IV-B plan.

(b) A State must provide child welfare services to refugee children according to the State's child welfare standards, practices, and procedures.

(c) Foster care maintenance payments must be provided under a State's program under title IV-E of the Social

Security Act if a child is eligible under that program.

§ 400.113 Duration of eligibility.

(a) Except as specified in paragraph (b), a refugee child may be eligible for services under § 400.112 of this part during the 36-month period beginning with the first month the child entered the United States.

(b) An unaccompanied minor continues to meet the definition of “unaccompanied minor” and is eligible for benefits and services under §§ 400.115 through 400.120 of this part until the minor—

- (1) Is reunited with a parent; or
- (2) Is united with a nonparental adult (relative or nonrelative) willing and able to care for the child to whom legal custody and/or guardianship is granted under State law; or
- (3) Attains 18 years of age or such higher age as the State’s title IV-B plan prescribes for the availability of child welfare services to any other child in the State.

§ 400.114 [Reserved]

§ 400.115 Establishing legal responsibility.

(a) A State must ensure that legal responsibility is established, including legal custody and/or guardianship, as appropriate, in accordance with applicable State law, for each unaccompanied minor who resettles in the State. The State must initiate procedures for establishing legal responsibility for the minor, with an appropriate court (if action by a court is required by State law), within 30 days after the minor arrives at the location of resettlement.

(b) In establishing legal responsibility, including legal custody and/or guardianship under State law, as appropriate, the minor’s natural parents should not be contacted in their native country since contact could be dangerous to the parents.

(c) Unaccompanied minors are not generally eligible for adoption since family reunification is the objective of the program. In certain rare cases, adoption may be permitted pursuant to adoption laws in the State of resettlement, provided a court finds that: (1)

Adoption would be in the best interest of the child; and (2) there is termination of parental rights (for example, in situations where the parents are dead or are missing and presumed dead) as determined by the appropriate State court. When adoption occurs, the child’s status as an unaccompanied minor terminates.

§ 400.116 Service for unaccompanied minors.

(a) A State must provide unaccompanied minors with the same range of child welfare benefits and services available in foster care cases to other children in the State. Allowable benefits and services may include foster care maintenance (room, board, and clothing) payments; medical assistance; support services; services identified in the State’s plans under titles IV-B and IV-E of the Social Security Act; services permissible under title XX of the Social Security Act; and expenditures incurred in establishing legal responsibility.

(b) A State may provide additional services if the Director, or his or her designee, determines such services to be reasonable and necessary for a particular child or children and provides written notification of such determination to the State.

§ 400.117 Provision of care and services.

(a) A State may provide care and services to an unaccompanied minor directly or through arrangements with a public or private child welfare agency approved or licensed under State law.

(b) If a State arranges for the care and services through a public or private nonprofit child welfare agency, it must retain oversight responsibility for the appropriateness of the unaccompanied minor’s care.

§ 400.118 Case planning.

(a) A State, or its designee under § 400.117, must develop and implement an appropriate plan for the care and supervision of, and services provided to, each unaccompanied minor, to ensure that the child is placed in a foster home or other setting approved by the legally responsible agency and in accordance with the child’s need for care

and for social, health, and educational services.

(b) Case planning for unaccompanied minors must, at a minimum, address the following elements:

- (1) Family reunification;
- (2) Appropriate placement of the unaccompanied child in a foster home, group foster care, residential facility, supervised independent living, or other setting, as deemed appropriate in meeting the best interest and special needs if the child.

(3) Health screening and treatment, including provision for medical and dental examinations and for all necessary medical and dental treatment.

(4) Orientation, testing, and counseling to facilitate the adjustment of the child to American culture.

(5) Preparation for participation in American society with special emphasis upon English language instruction and occupational as well as cultural training as necessary to facilitate the child's social integration and to prepare the child for independent living and economic self-sufficiency.

(6) Preservation of the child's ethnic and religious heritage.

(c) A State, or its designee under section 400.117 of this part, must review the continuing appropriateness of each unaccompanied minor's living arrangement and services no less frequently than every 6 months.

(Approved by the Office of Management and Budget under control number 0960-0418)

§ 400.119 Interstate movement.

After the initial placement of an unaccompanied minor, the same procedures that govern the movement of nonrefugee foster cases to other States apply to the movement of unaccompanied minors to other States.

§ 400.120 Reporting requirements.

A State must submit to ORR, on forms prescribed by the Director, the following reports on each unaccompanied minor:

(a) An initial report within 30 days of the date of the minor's placement in the State;

(b) A progress report every 12 months beginning with 12 months from the

date of the initial report in paragraph (a);

(c) A change of status report within 60 days of the date that—

- (1) The minor's placement is changed;
- (2) Legal responsibility of any kind for the minor is established or transferred; or

(d) A final report within 60 days of the date of that the minor—

- (1) Is reunited with a parent; or
- (2) Is united with an adult, other than a parent, in accordance with § 400.113(b) or § 400.115(c) of this part.

(3) Is emancipated.

(Approved by the Office of Management and Budget under control number 0960-0418)

Subpart I—Refugee Social Services

§ 400.140 Basis and scope.

This subpart sets forth requirements concerning formula allocation grants to States under section 412(c) of the Act for refugee social services.

[54 FR 5481, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995]

§ 400.141 Definitions.

For purposes of this subpart—

Refugee social services means any service set forth in §§ 400.154 or 400.155 of this subpart.

[54 FR 5481, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995]

APPLICATIONS, DETERMINATIONS OF ELIGIBILITY, AND PROVISION OF SERVICES

§ 400.145 Opportunity to apply for services.

(a) A State must provide any individual wishing to do so an opportunity to apply for services and determine the eligibility of each applicant.

(b) Except as otherwise specified in this subpart, a State must determine eligibility for and provide refugee social services specified in §§ 400.154 and 400.155 in accordance with the same procedures which it follows in its social service program under title XX of the Social Security Act with respect to determining eligibility, acting on applications and requests for services, and

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providing notification of right to a hearing.

(c) A State must insure that women have the same opportunities as men to participate in all services funded under this part, including job placement services.

[54 FR 5481, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995]

FUNDING AND SERVICE PRIORITIES

§ 400.146 Use of funds.

The State must use its social service grants primarily for employability services designed to enable refugees to obtain jobs within one year of becoming enrolled in services in order to achieve economic self-sufficiency as soon as possible. Social services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Social service funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

[60 FR 33603, June 28, 1995]

§ 400.147 Priority in provision of services.

A State must plan its social service program and allocate its social service funds in such a manner that services are provided to refugees in the following order of priority, except in certain individual extreme circumstances:

(a) All newly arriving refugees during their first year in the U.S., who apply for services;

(b) Refugees who are receiving cash assistance;

(c) Unemployed refugees who are not receiving cash assistance; and

(d) Employed refugees in need of services to retain employment or to attain economic independence.

[54 FR 5481, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995]

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PURCHASE OF SERVICES

§ 400.148 Purchase of services.

A state may provide services directly or it may purchase services from public or private service providers.

[54 FR 5481, Feb. 3, 1989]

CONDITIONS OF ELIGIBILITY FOR REFUGEE SOCIAL SERVICES

§ 400.150 General eligibility requirements.

Eligibility for refugee social services is limited to those refugees who—

(a) Meet immigration status and identification requirements in Subpart D of this part;

(b) Meet the other eligibility requirements and conditions in this subpart.

[54 FR 5481, Feb. 3, 1989]

§ 400.152 Limitations on eligibility for services.

(a) A State may provide the social services defined in § 400.154 to refugees who are 16 years of age or older and who are not full-time students in elementary or secondary school, except that such a student may be provided services under § 400.154 (a) and (b) in order to obtain part-time or temporary (e.g., summer) employment while a student or full-time permanent employment upon completion of schooling.

(b) A State may not provide services under this subpart, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months, except that refugees who are receiving employability services, as defined in § 400.154, as of September 30, 1995, as part of an employability plan, may continue to receive those services through September 30, 1996, or until the services are completed, whichever occurs first, regardless of their length of residence in the U.S.

[54 FR 5481, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995]

SCOPE OF REFUGEE SOCIAL SERVICES

§ 400.154 Employability services.

A State may provide the following employability services—

(a) *Employment services*, including development of a family self-sufficiency plan and an individual employability plan, world-of-work and job orientation, job clubs, job workshops, job development, referral to job opportunities, job search, and job placement and followup.

(b) *Employability assessment services*, including aptitude and skills testing.

(c) *On-the job training*, when such training is provided at the employment site and is expected to result in full-time, permanent, unsubsidized employment with the employer who is providing the training.

(d) *English language instruction*, with an emphasis on English as it relates to obtaining and retaining a job.

(e) *Vocational training*, including driver education and training when provided as part of an individual employability plan.

(f) *Skills recertification*, when such training meets the criteria for appropriate training in § 400.81(b) of this part.

(g) *Day care for children*, when necessary for participation in an employability service or for the acceptance or retention of employment.

(h) *Transportation*, when necessary for participation in an employability service or for the acceptance or retention of employment.

(i) *Translation and interpreter services*, when necessary in connection with employment or participation in an employability service.

(j) *Case management services*, as defined in § 400.2 of this part, for refugees who are considered employable under § 400.76 and for recipients of AFDC and GA who are considered employable, provided that such services are directed toward a refugee's attainment of employment as soon as possible after arrival in the United States.

[54 FR 5481, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995]

§ 400.155 Other services.

A State may provide the following other services—

(a) *Information and referral services*.

(b) *Outreach services*, including activities designed to familiarize refugees with available services, to explain the purpose of these services, and facilitate access to these services.

(c) *Social adjustment services*, including:

(1) *Emergency services*, as follows: Assessment and short-term counseling to persons or families in a perceived crisis; referral to appropriate resources; and the making of arrangements for necessary services.

(2) *Health-related services*, as follows: Information; referral to appropriate resources; assistance in scheduling appointments and obtaining services; and counseling to individuals or families to help them understand and identify their physical and mental health needs and maintain or improve their physical and mental health.

(3) *Home management services*, as follows: Formal or informal instruction to individuals or families in management of household budgets, home maintenance, nutrition, housing standards, tenants' rights, and other consumer education services.

(d) *Day care for children*, when necessary for participation in a service other than an employability service.

(e) *Transportation*, when necessary for participation in a service other than an employability service.

(f) *Translation and interpreter services*, when necessary for a purpose other than in connection with employment or participation in an employability service.

(g) *Case management services*, when necessary for a purpose other than in connection with employment or participation in employability services.

(h) *Any additional service*, upon submission to and approval by the Director of ORR, aimed at strengthening and supporting the ability of a refugee individual, family, or refugee community to achieve and maintain economic self-sufficiency, family stability, or community integration which has been demonstrated as effective and is not available from any other funding source.

[54 FR 5481, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995]

§ 400.156 Service requirements.

(a) In order to avoid interference with refugee employment, English language instruction and vocational training funded under this part must be provided to the fullest extent feasible outside normal working hours.

(b) In planning and providing services under §§ 400.154 and 400.155, a State must take into account those services which a resettlement agency is required to provide for a refugee whom it sponsors in order to ensure the provision of seamless, coordinated services to refugees that are not duplicative.

(c) English language instruction funded under this part must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related services.

(d) Services funded under this part must be refugee-specific services which are designed specifically to meet refugee needs and are in keeping with the rules and objectives of the refugee program, except that vocational or job skills training, on-the-job training, or English language training need not be refugee-specific.

(e) Services funded under this part must be provided to the maximum extent feasible in a manner that is culturally and linguistically compatible with a refugee's language and cultural background.

(f) Services funded under this part must be provided to the maximum extent feasible in a manner that includes the use of bilingual/bicultural women on service agency staffs to ensure adequate service access by refugee women.

(g) A family self-sufficiency plan must be developed for anyone who receives employment-related services funded under this part.

[54 FR 5481, Feb. 3, 1989, as amended at 60 FR 33604, June 28, 1995]

Subpart J—Federal Funding

SOURCE: 51 FR 3916, Jan. 30, 1986, unless otherwise noted.

§ 400.200 Scope.

This subpart specifies when, and the extent to which, Federal funding (FF)

is available under this regulation in expenditures for determining eligibility and for providing assistance and services to refugees determined eligible under this part, and prescribes limitations and conditions on FF for those expenditures.

FEDERAL FUNDING FOR EXPENDITURES FOR DETERMINING ELIGIBILITY AND PROVIDING ASSISTANCE AND SERVICES

§ 400.202 Extent of Federal funding.

Subject to the availability of funds and under the terms and conditions approved by the Director, FF will be provided for 100 percent of authorized allowable costs of determining eligibility and providing assistance and services in accordance with this part.

§ 400.203 Federal funding for cash assistance.

(a) To the extent that sufficient funds are appropriated, Federal funding is available for cash assistance provided to eligible refugees during the 36-month period beginning with the first month the refugee entered the United States, as follows—

(1) If a refugee is eligible for AFDC, adult assistance programs, or foster care maintenance payments under title IV-E of the Social Security Act, FF is available only for the non-Federal share of such assistance.

(2) If a refugee is eligible for SSI, FF is available for any supplementary payment a State may provide under that program.

(b) Federal funding is available for refugees cash assistance (RCA) provided to eligible refugees during a period of time to be determined by the Director in accordance with § 400.211.

(c) To the extent that sufficient funds are appropriated, Federal funding is available for general assistance (GA) provided to eligible refugees during the 24-month period beginning with the 13th month after the refugee entered the United States.

[51 FR 3916, Jan. 30, 1986 as amended at 53 FR 32224, Aug. 24, 1988; 58 FR 46090, Sept. 1, 1993; 58 FR 64507, Dec. 8, 1993; 60 FR 33604, June 28, 1995]

§ 400.204 Federal funding for medical assistance.

(a) To the extent that sufficient funds are appropriated, Federal funding is available for the non-Federal share of medical assistance provided to refugees who are eligible for Medicaid or adult assistance programs during the 36-month period beginning with the first month the refugee entered the United States.

(b) Federal funding is available for refugee medical assistance (RMA) provided to eligible refugees during a period of time to be determined by the Director in accordance with § 400.211.

(c) To the extent that sufficient funds are appropriated, Federal funding is available for a State's expenditures for medical assistance under a general assistance (GA) program during the 24-month period beginning with the 13th month after the refugee entered the United States.

[51 FR 3916, Jan. 30, 1986, as amended at 53 FR 32225, Aug. 24, 1988; 58 FR 46090, Sept. 1, 1993; 58 FR 64507, Dec. 8, 1993; 60 FR 33604, June 28, 1995]

§ 400.205 Federal funding for assistance and services for unaccompanied minors.

Federal funding is available for a State's expenditures for service to unaccompanied minors under §§ 400.115 through 400.120 of this part until the minor's status as an unaccompanied minor is terminated as specified by § 400.113.

§ 400.206 Federal funding for social services and targeted assistance services.

(a) Federal funding is available for refugee social services as set forth in Subpart I of this part, including the reasonable and necessary identifiable administrative costs of providing such services, in accordance with allocations by the Director.

(b) Federal funding is available for targeted assistance services as set forth in subpart L of this part, including reasonable and necessary identifiable State administrative costs of providing such services, not to exceed 5

percent of the total targeted assistance award to the State.

[54 FR 5483, Feb. 3, 1989, as amended at 60 FR 33604, June 28, 1995]

§ 400.207 Federal funding for administrative costs.

Federal funding is available for reasonable and necessary identifiable administrative costs of providing assistance and services under this part only for those assistance and service programs set forth in §§ 400.203 through 400.205 for which Federal funding is currently made available under the refugee program. A State may claim only those costs that are determined to be reasonable and allowable as defined by the Administration for Children and Families. Such costs may be included in a State's claims against its quarterly grants for the purposes set forth in §§ 400.203 through 400.205 of this part.

[60 FR 33604, June 28, 1995]

§ 400.208 Claims involving filing units which include both refugees and nonrefugees.

(a) Federal funding is available for a State's expenditures for assistance and services to a filing unit which includes a refugee parent or two refugee parents and one or more of their children who are nonrefugees, including children who are United States citizens.

(b) Federal funding is not available for a State's expenditures for assistance and services provided to a non-refugee adult member of a filing unit or to a nonrefugee child or children in a filing unit if one parent in the filing unit is a nonrefugee.

§ 400.209 Claims involving filing units which include refugees who have been in the United States more than 36 months.

Federal funding is not available for State expenditures for cash and medical assistance and child welfare services (except services for unaccompanied minors) provided to any refugee within a filing unit who has been in the United States

(a) More than 36 months if the filing unit is eligible for AFDC, SSI, Medicaid, GA, or child welfare services (except services for unaccompanied minors), or

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(b) More than a period of time to be determined by the Director in accordance with § 400.211 if the filing unit is eligible for RCA or RMA. A State agency must exclude expenditures made on behalf of such refugees from its claim.

[51 FR 3916, Jan. 30, 1986 as amended at 53 FR 32225, Aug. 24, 1988; 57 FR 1115, Jan. 10, 1992; 58 FR 46090, Sept. 1, 1993; 58 FR 64507, Dec. 8, 1993]

§ 400.210 Time limits for obligating and expending funds and for filing State claims.

Federal funding is available for a State's expenditures for assistance and services to eligible refugees for which the following time limits are met:

(a) *CMA grants*, as described at § 400.11(a)(1) of this part:

(1) Except for services for unaccompanied minors, a State must use its CMA grants for costs attributable to the Federal fiscal year (FFY) in which the Department awards the grants. With respect to CMA funds used for services for unaccompanied minors, the State may use its CMA funds for services provided during the Federal fiscal year following the FFY in which the Department awards the funds.

(2) A State's final financial report on expenditures of CMA grants, including CMA expenditures for services for unaccompanied minors, must be received no later than one year after the end of the FFY in which the Department awarded the grant. At that time, the Department will deobligate any unexpended funds, including any unliquidated obligations.

(b) *Social service grants and targeted assistance grants*, as described, respectively, at §§ 400.11(a)(2) and 400.311 of this part:

(1) A State must obligate its social service and targeted assistance grants no later than one year after the end of the FFY in which the Department awards the grant.

(2) A State's final financial report on expenditures of social service and targeted assistance grants must be received no later than two years after the end of the FFY in which the Department awarded the grant. At that time, the Department will deobligate

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any unexpended funds, including any unliquidated obligations.

[60 FR 33604, June 28, 1995]

§ 400.211 Methodology to be used to determine time-eligibility of refugees.

(a) The time-eligibility period for refugee cash assistance and refugee medical assistance will be determined by the Director each year, based on appropriated funds available for the fiscal year. The Director will make a determination of the eligibility period each year as soon as possible after funds are appropriated for the refugee program, and also at subsequent points during the fiscal year, only if necessary, based on updated information on refugee flows and State reports on receipt of assistance and expenditures. The method to be used to determine the RCA/RMA eligibility period will include the following steps and will be applied to various RCA/RMA time-eligibility periods in order to determine the time-eligibility period which will provide the most number of months without incurring a shortfall in funds for the fiscal year.

(1) The time-eligibility population for the projected fiscal year will be estimated on the basis of the refugee admissions ceiling established by the President for that fiscal year and the anticipated arrival of other persons eligible for refugee assistance, to the extent that data on these persons are available. The anticipated pattern of refugee flow for the projected fiscal year will be estimated based on the best available historical and current refugee flow information that will most accurately forecast the refugee flow for the projected fiscal year. These arrival figures will then be used to determine the time-eligible population for a given duration of RCA/RMA benefits.

(2) The average annual member of RCA and RMA recipients will be determined by multiplying the estimated time-eligible population established in paragraph (a)(1) of this section by the estimated RCA and RMA participation rates. The RMA participation rate will take into account both RCA recipients, who are also eligible for RMA, and RMA-only recipients. Recipient data

from quarterly performance reports submitted by States for the most recent 4 quarters for which reports are available will be used to determine the appropriate participation rates for various RCA/RMA time-eligibility periods.

(3) The average annual per recipient cost for RCA and RMA will be estimated separately, based on estimated per recipient costs for the most recent fiscal year, using available data, and inflated for the projected fiscal year using projected increases in per capita AFDC cash assistance costs for RCA and per capita AFDC Medicaid costs for RMA.

(4) The expected average number of RCA recipients will be multiplied by the expected RCA per recipient cost to derive estimated RCA costs. The expected average annual number of RMA recipients will be multiplied by the expected RMA per recipient cost to derive estimated RMA costs.

(5) State administrative costs for the projected fiscal year for all States in the aggregate will be estimated based on total actual allowable expenditures for State administration for the most recent fiscal year. The variable portion of administrative costs will be adjusted for changes in program participation and inflated by the Consumer Price Index (CPI) for all items as estimated by the Office of Management and Budget (OMB). The fixed portion of administrative costs will be adjusted by the CPI inflator only.

(6) The total estimated costs for the projected fiscal year will equal the combined estimated costs for RCA, RMA, and State administration as calculated in paragraphs (a)(1) through (5) of this section.

(b) If, as the Director determines, the period of eligibility needs to be changed from the eligibility period in effect at the time, the Director will publish a final notice in the FEDERAL REGISTER, announcing the new period of eligibility for refugee cash assistance and refugee medical assistance and the effective date for implementing the new eligibility period. States will be given as much notice as available funds will allow without resulting in a further reduction in the eligibility period.

At a minimum, States will be given 30 days' notice.

[58 FR 64507, Dec. 8, 1993]

§ 400.212 Restrictions in the use of funds.

Federal funding under this part is not available for travel outside the United States without the written approval of the Director.

[60 FR 33604, June 28, 1995]

§ 400.220 Counting time-eligibility of refugees.

A State may calculate the time-eligibility of a refugee under this part in either of the following ways:

(a) On the basis of calendar months, in which case the month of arrival in the United States must count as the first month; or

(b) On the basis of the actual date of arrival, in which case each month will be counted from that specific date.

[54 FR 5483, Feb. 3, 1989]

Subpart K—Waivers and Withdrawals

§ 400.300 Waivers.

If a State wishes to apply for a waiver of a requirement of this part, the Director may waive such requirement with respect to such State, unless required by statute, if the Director determines that such waiver will advance the purposes of this part and is appropriate and consistent with Federal refugee policy objectives. To the fullest extent practicable, the Director will approve or disapprove an application for a waiver within 130 days of receipt of such application. The Director shall provide timely written notice of the reasons for denial to States whose applications are disapproved.

[60 FR 33604, June 28, 1995]

§ 400.301 Withdrawal from the refugee program.

(a) In the event that a State decides to cease participation in the refugee program, the State must provide 120 days advance notice to the Director before withdrawing from the program.

(b) To participate in the refugee program, a State is expected to operate all

components of the refugee program, including refugee cash and medical assistance, social services, preventive health, and an unaccompanied minors program if appropriate. A State is also expected to play a coordinating role in the provision of assistance and services in accordance with §400.5(b). In the event that a State wishes to retain responsibility for only part of the refugee program, it must obtain prior approval from the Director of ORR. Such approval will be granted only under extraordinary circumstances and if it is in the best interest of the Government.

(c) When a State withdraws from all or part of the refugee program, the Director may authorize a replacement designee or designees to administer the provision of assistance and services, as appropriate, to refugees in that State. A replacement designee must adhere to the same regulations under this part that apply to a State-administered program, with the exception of the following provisions: 45 CFR 400.5(d), 400.7, 400.55(b)(2), 400.56(a)(1), 400.56(a)(2), 400.56(b)(2)(i), 400.94(a), 400.94(b), 400.94(c), and subpart L. Certain provisions are excepted because they apply only to States and become moot when a State withdraws from participation in the refugee program and is replaced by another entity. States would continue to be responsible for administering the other excepted provisions because these provisions refer to the administration of other State-run public assistance programs.

[60 FR 33604, June 28, 1995]

Subpart L—Targeted Assistance

SOURCE: 60 FR 33604, June 28, 1995, unless otherwise noted.

§ 400.310 Basis and scope.

This subpart sets forth requirements concerning formula allocation grants to States under section 412(c)(2) of the Act for targeted assistance.

§ 400.311 Definitions.

For purposes of this subpart—
“Targeted assistance grants” means formula allocation funding to States for assistance to counties and similar areas in the States where, because of

factors such as unusually large refugee populations (including secondary migration), high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees.

§ 400.312 Opportunity to apply for services.

A State must provide any individual wishing to do so an opportunity to apply for targeted assistance services and determine the eligibility of each applicant.

FUNDING AND SERVICE PRIORITIES

§ 400.313 Use of funds.

A State must use its targeted assistance funds primarily for employability services designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program in order to achieve economic self-sufficiency as soon as possible. Targeted assistance services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Targeted assistance funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

§ 400.314 Priority in provision of services.

A State must plan its targeted assistance program and allocate its targeted assistance funds in such a manner that services are provided to refugees in the following order of priority, except in certain individual extreme circumstances:

- (a) Cash assistance recipients, particularly long-term recipients;
- (b) Unemployed refugees who are not receiving cash assistance; and
- (c) Employed refugees in need of services to retain employment or to attain economic independence.

§ 400.315 General eligibility requirements.

- (a) For purposes of determining eligibility of refugees for services under

this subpart, the same standards and criteria shall be applied as are applied in the determination of eligibility for refugee social services under §§ 400.150 and 400.152(a).

(b) A State may not provide services under this subpart, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months, except that refugees who are receiving employability services, as defined in § 400.316, as of September 30, 1995, as part of an employability plan, may continue to receive those services through September 30, 1996, or until the services are completed, whichever occurs first, regardless of their length of residence in the U.S.

§ 400.316 Scope of targeted assistance services.

A State may provide the same scope of services under this subpart as may be provided to refugees under §§ 400.154 and 400.155, with the exception of § 400.155(h).

§ 400.317 Service requirements.

In providing targeted assistance services to refugees, a State must adhere to the same requirements as are applied to the provision of refugee social services under § 400.156.

§ 400.318 Eligible grantees.

Eligible grantees are those agencies of State governments which are responsible for the refugee program under 45 CFR 400.5 in States containing counties which qualify for targeted assistance awards. The use of targeted assistance funds for services to Cuban and Haitian entrants is limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

§ 400.319 Allocation of funds.

(a) A State with more than one qualifying targeted assistance county may allocate its targeted assistance funds differently from the formula allocations for counties presented in the ORR targeted assistance notice in a fiscal year only on the basis of its population of refugees who arrived in the U.S. during the most recent 5-year period. A State may use welfare data as an addi-

tional factor in the allocation of targeted assistance funds if it so chooses; however, a State may not assign a greater weight to welfare data than it has assigned to population data in its allocation formula.

(b) A State must assure that not less than 95 percent of the total award to the State is made available to the qualified county or counties, except in those cases where the qualified county or counties have agreed to let the State administer the targeted assistance program in the county's stead.

PART 401—CUBAN/HAITIAN ENTRANT PROGRAM

Sec.

401.1 [Reserved]

401.2 Definitions.

401.3—401.11 [Reserved]

401.12 Cuban and Haitian entrant cash and medical assistance.

AUTHORITY: Sec. 501(a), Pub. L. 96-422, 94 Stat. 1810 (8 U.S.C. 1522 note); Executive Order 12341 (January 21, 1982).

SOURCE: 47 FR 10850, Mar. 12, 1982, unless otherwise noted.

§ 401.1 [Reserved]

§ 401.2 Definitions.

For purposes of this part a *Cuban and Haitian entrant* or *entrant* is defined as:

(a) Any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(b) Any other national of Cuba or Haiti

(1) Who:

(i) Was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) Is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) Has an application for asylum pending with the Immigration and Naturalization Service; and

(2) With respect to whom a final, non-appellable, and legally enforceable